

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DISTRICT

JANE DOE)	CASE NO.: 5:18cv1870
)	
Plaintiff,)	JUDGE SARA LIOI
)	
-vs.-)	<u>MOTION TO DISMISS OR</u>
)	<u>MOTION FOR ENLARGEMENT OF</u>
DAVID A. FOSTER et. al.)	<u>TIME TO FILE HIS ANSWER</u>
)	
)	
Defendants.)	
)	

Now come Defendant, David A. Foster, by and through the undersigned counsel, and hereby moves this honorable Court to dismiss Plaintiff's Complaint for failure to state a claim upon which relief can be granted pursuant to Federal Rule 12 (b)(6). Defendant cannot be expected to defend a law suit when the identity and address of the Plaintiff are not revealed to Defendant in the Complaint. Furthermore, this Court cannot award damages to an unknown, fictional Plaintiff. In the alternative, Defendant Foster moves the Court for an enlargement of time of twenty one (21) days to file his answer to Plaintiff's Complaint to September 28, 2018. Counsel for Defendant Foster just learned that this matter was removed to federal court. Counsel had been instructed that the answer date for the Complaint in State Court was September 7, 2018 and planned accordingly.

Counsel for David A. Foster attempted to contact Plaintiff's counsel to obtain his

consent to the extension and has not yet received a response to that attempted communication.

Respectfully submitted,

/s/ Timothy D. McKinzie

McKinzie and Associates

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CERTIFICATE OF SERVICE

I hereby certify that on September 7th, 2018, a copy of the foregoing Motion to Dismiss or in the Alternative Motion for Enlargement of Time Within Which to Move or Plead to the Complaint was filed electronically. Notice of this filing will be sent to all registered parties by operation of the Court's electronic filing system.

Timothy D. McKinzie

Attorney for Defendant David A. Foster